United Nations A/57/565

General Assembly

Distr.: General
30 October 2002
English
Original: Arabic

Fifty-seventh session
Agenda item 158

Establishment of the International Criminal Court

Report of the Sixth Committee

Rapporteur: Mr. Karim **Medrek** (Morocco)

I. Introduction

1. The item entitled "Establishment of the International Criminal Court" was included in the provisional agenda of the fifty-seventh session of the General Assembly pursuant to Assembly resolution 56/85 of 12 December 2001.

2. At its 19th plenary meeting, on 20 September 2002, the General Assembly, on the recommendation of the General Committee, decided to include the item in its agenda and to allocate it to the Sixth Committee.

3. The Sixth Committee considered the item at its 13th to 15th and 20th meetings, on 14, 15 and 28 October 2002. The views of the representatives who spoke during the Committee's consideration of the item are reflected in the relevant summary records (A/C.6/57/SR.13-15 and 20).

4. For its consideration of the item, the Committee had before it the following documents:

(a) Report of the Secretary-General on the establishment of the International Criminal Court (A/57/403);

(b) Letter dated 9 July 2002 from the Permanent Representative of Denmark to the United Nations addressed to the Secretary-General (A/57/208).

II. Consideration of draft resolution A/C.6/57/L.16 and Rev.1

5. At the 15th meeting, on 15 October, the representative of the Netherlands introduced a draft resolution entitled "Establishment of the International Criminal Court" (A/C.6/57/L.16) and orally revised it as follows:

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(a) At the end of operative paragraph 4, a new footnote 4 was inserted, reading:

> "[4] Rules of Procedure and Evidence; Elements of Crimes; rules of procedure of the Assembly of States Parties; financial regulations and rules; Agreement on the Privileges and Immunities of the International Criminal Court; basic principles governing a headquarters agreement to be negotiated between the Court and the host country; a draft relationship agreement between the Court and the United Nations; budget for the first financial period of the Court; resolution on continuity of work in respect of the crime of aggression; resolution on the procedure for the nomination and election of judges, the Prosecutor and Deputy Prosecutors of the International Criminal Court; resolution on the procedure for election of the judges for the International Criminal Court; resolution on the establishment of the Committee on Budget and Finance; resolution on the procedure for the nomination and election of members of the Committee on Budget and Finance; resolution on the establishment of a fund for the benefit of victims of crimes within the jurisdiction of the Court, and of the families of such victims; resolution on the procedure for the nomination and election of members of the Board of Directors of the Trust Fund for the benefit of victims; resolution on provisional arrangements for the secretariat of the Assembly of States Parties; resolution on a permanent secretariat of the Assembly of States Parties; resolution on the selection of the staff of the International Criminal Court; resolution on relevant criteria for voluntary contributions to the International Criminal Court; resolution on budget appropriations for the first financial period and financing of appropriations for the first financial period; resolution on the Working Capital Fund for the first financial period; resolution on scales of assessments for the apportionment of the expenses of the International Criminal Court; resolution on crediting contributions to the United Nations Trust Fund to Support the Establishment of the International Criminal Court; decision on provision of funds for the Court; decision on interim arrangements for the exercise of authority pending the assumption of office by the Registrar; decision on the participation of the International Criminal Court in the United Nations Joint Staff Pension Fund; and decision on seating arrangements for States Parties",

and the remaining footnote was renumbered accordingly;

(b) A new operative paragraph 12 was inserted after operative paragraph 11, reading:

> "12. *Expresses its appreciation* to States that made voluntary contributions to the first session of the Assembly of States Parties in accordance with paragraph 10 of resolution 56/85",

and the remaining paragraph was renumbered accordingly.

6. At the 20th meeting, on 28 October, the Committee had before it a revised draft resolution entitled "Establishment of the International Criminal Court" (A/C.6/57/L.16/Rev.1), which incorporated the oral revisions made to draft resolution A/C.6/57/L.16 at the 15th meeting.

7. At the same meeting, the Secretary of the Committee made a statement regarding the administrative and financial implications of the draft resolution, in

particular concerning the responsibilities entrusted to the Secretary-General in relation to operative paragraphs 5, 7, 8 and 11.

8. Also at the same meeting, the representative of the United States of America made a statement indicating that the United States would not participate in the decision on the draft resolution (see A/C.6/57/SR.20).

9. At the same meeting, the Committee adopted draft resolution A/C.6/57/L.16/Rev.1 without a vote (see para. 10).

III. Recommendation of the Sixth Committee

10. The Sixth Committee recommends to the General Assembly the adoption of the following draft resolution:

Establishment of the International Criminal Court

The General Assembly,

Recalling its resolutions 47/33 of 25 November 1992, 48/31 of 9 December 1993, 49/53 of 9 December 1994, 50/46 of 11 December 1995, 51/207 of 17 December 1996, 52/160 of 15 December 1997, 53/105 of 8 December 1998, 54/105 of 9 December 1999, 55/155 of 12 December 2000 and 56/85 of 12 December 2001,

Noting that the Rome Statute of the International Criminal Court was adopted on 17 July 1998[1] and entered into force on 1 July 2002,

Noting also that the Preparatory Commission for the International Criminal Court, established in accordance with resolution F of the Final Act of the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court, held its ninth and tenth sessions from 8 to 19 April and from 1 to 12 July 2002, respectively, and thus successfully completed its mandate in accordance with that resolution,

Recalling the United Nations Millennium Declaration adopted at the Millennium Assembly,[2] in which heads of State and Government stressed the importance of the International Criminal Court,

Reiterating the historic significance of the adoption of the Rome Statute of the International Criminal Court,[1]

1. *Calls upon* all States that are not yet parties to the Rome Statute of the International Criminal Court to consider ratifying it or acceding to it without delay, and encourages efforts aimed at promoting awareness of the results of the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court, held in Rome from 15 June to 17 July 1998, the provisions of the Statute and the process leading to the establishment of the International Criminal Court;

[1] A/CONF.183/9.

[2] See resolution 55/2.

2. *Calls upon* all States to consider becoming parties to the Agreement on the Privileges and Immunities of the International Criminal Court[3] without delay;

3. *Welcomes* the important work accomplished by the Preparatory Commission for the International Criminal Court in the completion of its mandate in accordance with resolution F of the Rome Conference;

4. *Also welcomes* the holding of the first session of the Assembly of States Parties to the Rome Statute from 3 to 10 September 2002 and the adoption of a number of important instruments by the Assembly;[4]

5. *Takes note* of the report of the Secretary-General on the establishment of the International Criminal Court,[5] in particular of its paragraphs 12 to 15 indicating the decision of the Assembly of States Parties to resume its first session from 3 to 7 February and from 21 to 23 April 2003, and to hold the meeting of the Committee on Budget and Finance from 4 to 8 August 2003 and the second session of the Assembly of States Parties from 8 to 12 September 2003, all of which are to be held at United Nations Headquarters;

6. *Recognizes* the need to make available, on a provisional basis, adequate resources and secretariat services for the Assembly of States Parties to enable it to discharge its functions efficiently and expeditiously;

7. *Requests* the Secretary-General to undertake the preparations necessary for holding the meetings referred to in paragraph 5 in accordance with the rules of procedure of the Assembly of States Parties to the Rome Statute of the International Criminal Court;

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[3] *Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, First session, New York, 3-10 September 2002* (ICC-ASP/1/3) (United Nations publication, Sales No. E.03.V.2), part II.E.

[4] Rules of Procedure and Evidence; Elements of Crimes; rules of procedure of the Assembly of States Parties; financial regulations and rules; Agreement on the Privileges and Immunities of the International Criminal Court; basic principles governing a headquarters agreement to be negotiated between the Court and the host country; a draft relationship agreement between the Court and the United Nations; budget for the first financial period of the Court; resolution on continuity of work in respect of the crime of aggression; resolution on the procedure for the nomination and election of judges, the Prosecutor and Deputy Prosecutors of the International Criminal Court; resolution on the procedure for election of the judges for the International Criminal Court; resolution on the establishment of the Committee on Budget and Finance; resolution on the procedure for the nomination and election of members of the Committee on Budget and Finance; resolution on the establishment of a fund for the benefit of victims of crimes within the jurisdiction of the Court, and of the families of such victims; resolution on the procedure for the nomination and election of members of the Board of Directors of the Trust Fund for the benefit of victims; resolution on provisional arrangements for the secretariat of the Assembly of States Parties; resolution on a permanent secretariat of the Assembly of States Parties; resolution on the selection of the staff of the International Criminal Court; resolution on relevant criteria for voluntary contributions to the International Criminal Court; resolution on budget appropriations for the first financial period and financing of appropriations for the first financial period; resolution on the Working Capital Fund for the first financial period; resolution on scales of assessments for the apportionment of the expenses of the International Criminal Court; resolution on crediting contributions to the United Nations Trust Fund to Support the Establishment of the International Criminal Court; decision on provision of funds for the Court; decision on interim arrangements for the exercise of authority pending the assumption of office by the Registrar; decision on the participation of the International Criminal Court in the United Nations Joint Staff Pension Fund; and decision on seating arrangements for States Parties.

[5] A/57/403.

8. *Also requests* the Secretary-General to make available to those meetings secretariat services for the necessary preparatory work as well as for any post-session follow-up actions;

9. *Further requests* the Secretary-General to take steps to expand the mandate of the trust fund established pursuant to General Assembly resolution 51/207 for voluntary contributions towards meeting the costs of participation of the least developed countries in the work of the Assembly of States Parties to the Rome Statute of the International Criminal Court;

10. *Requests* the Secretary-General to report to the General Assembly at its fifty-eighth session on the implementation of the present resolution;

11. *Decides* that the costs of services rendered to the Assembly of States Parties that may accrue to the United Nations as a result of the implementation of the present resolution shall be paid in advance to the Organization;

12. *Expresses its appreciation* to States that made voluntary contributions to the first session of the Assembly of States Parties in accordance with paragraph 10 of resolution 56/85;

13. *Decides* to include in the provisional agenda of its fifty-eighth session an item entitled "International Criminal Court".